

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

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BANK OF AMERICA, N.A., ect. al.,

Plaintiff,

v.

Nelson L. Bruce, ect. al.

Defendants.

Civil Action No.: 2:17-cv-02617-RMG-BM

**DEFENDANT'S OBJECTIONS
TO MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Under 28 U.S.C. § 636(b)(1)(C) and the Federal Rule of Civil Procedure 72(b) and Local Rule 72.1, Defendant Nelson L. Bruce respectfully submit the following objections to certain of Magistrate Judge's Report and Recommendation(R&R) (Doc. 14), filed January 19, 2018. Defendant does not object to the Report and Recommendation overall but to certain statements of to the Magistrate Judge's report and recommendation. All Defendants have been notified to join in on the removal of the action. The Magistrate Judge erred in recommending that the Court grant the Plaintiffs motion to remand to State court (Doc.8 and 8-1) therefore Defendant Nelson L. Bruce Objects to this recommendation and argues the following:

ARGUMENTS

I. The Magistrate Judge Disregarded the Applicable Legal Standard for Federal Question and Federal Jurisdiction.

In regards to the following statement by the Magistrate Judge, “With respect to a removed case, the removal statute, 28 U. S.C. § 1441, allows a state court defendant to remove a case to a federal district court if the state court action could have originally been filed there. See *Darcangelo v. Verizon Commc'ns, Inc.*, 292 F.3d 181, 186 (4th Cir. 2002) **Defendant accepts this statement.**

In regards to the following statement by the Magistrate Judge “Generally a case can be filed in a federal district court only if there is diversity of citizenship under 28 U.S.C. § 1332, or if there is federal question jurisdiction under 28 U.S.C. § 1331. Here, Defendant Bruce asserts federal question jurisdiction as the basis for removal of this case. "The presence or absence of federal-question jurisdiction is governed by the 'well-pleaded complaint rule,' which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiffs properly pleaded complaint. The rule makes the plaintiff the master of the claim; he or she may avoid federal jurisdiction by exclusive reliance on state law." *Caterpillar Inc. v. Williams*, 482 U.S. 386,392 (1987) (internal citation omitted); see *Harless v. CSX Hotels, Inc.*, 389 F.3d 444,450 (4th Cir. 2004)[discussing the well-pleaded complaint rule].

Where Magistrate stated: Finally, to the extent that Defendant Bruce is actually attempting to instead assert diversity jurisdiction, he is precluded as a matter of law from removing this case on the basis of diversity of citizenship since he is a citizen of the state in which the action was brought (South Carolina). See 28 U.S.C. § 1441(b)(2)[“A civil action otherwise removable solely on the basis of the jurisdiction under section 1332(a) of this title may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.”]. Therefore, BOA's motion to remand

should be granted on the basis that there is a lack of subject matter jurisdiction in this Court.⁴ In the alternative, it is recommended that this action be remanded back to the state court sua sponte because this Court lacks subject matter jurisdiction (as discussed above).⁵

Also where Magistrate Stated: “A careful review of the pleading in this case fails to reveal any basis for federal question jurisdiction. This is a state law foreclosure action, and a review of the complaint reveals that it is solely based on state law. See ECF No. 1-1 at 6-11. No federal jurisdiction exists over a complaint which "merely states a cause of action for enforcement of a promissory note and foreclosure of the associated security interest in real property." *Burbage v. Richburg*, 417 F. Supp.2d 746, 749 (D.S.C. 2006); see also *Pettis v. Law Office of Hutchens, Senter, Kellam and Pettit, C/A No. 3:13-147-FDW*, 2014 WL 526105, at *2 (W.D.N.C. Feb. 7, 2014)(collecting cases); *Deutsche Bank Nat'l Trust Co. v. Lovett, CIA No. 3:12-1819-JFA*, 2013 WL 528759, at *2 (D.S.C. Feb. 11, 2013).”

And Also where Magistrate stated: Defendant objects to each and every statement and cases where the cases do not pertain to the Defendant and states that the Magistrate erred in their decision in these sections for the following reasons:

1. As stated in Defendants **Response to Plaintiffs Motion to Remand** in regards to the well-plead complaint rule, Defendant has incorporated by reference the “**Artful Pleading Doctrine/Rule**” which the Magistrate Judge may have over looked and/or failed to address and acknowledge (See **Page 6 of 9 Section III of “Defendants Response to Plaintiffs Motion to Remand”** filed 11-3-2017 for details).
2. There is diversity in citizenship in this case because the Defendant is not an 14th Amendment State Citizen as presumed in the Magistrates report and recommendation,

Defendant is an America citizen as defined under **1933 - LEGISLATIVE JOURNAL - HOUSE - PAGE 5759 RESOLUTION No. 75** and as documented in page **1 of 15** of his **Affidavit/Durable Power of Attorney Instrument** included with this response as Evidence on the Record to be incorporated in this case.

3. Defendant has alleged after further discovery of State Business Corporation Records that the Plaintiff (A foreign principal as defined under “**FARA**”) is not registered with the state of South Carolina and the current articles of associations filed with the state show that Bank of America, N.A. has merged out of Existence as of March 30, 2011 (therefore not incorporated in South Carolina) and that their “principle place of business” (as defined in Supreme Court opinion for the case involving **Hertz Corp. v. Friend, 559 U.S.(2010)** is located in Charlotte North Carolina (their headquarters which makes them a citizen of North Carolina), that would also make this a case that involves diversity and Defendant requests that Plaintiff files on the record a certified copy of their articles of association from the Secretary of State verifying their Principal place of business as stated in Defendants response to **Plaintiffs motion to Remand page 3/9.**

4. Federal question has been raised by the Plaintiff in their original Pleadings disputed by Plaintiff in whole or in part (**No.4 of Plaintiffs allegations**) where they referenced that this is a “Federal Housing Administration Loan” not approved by HAMP which is FHA governed by the “**National Housing Act,**” (a Federal legislation passed in 1934) which gives rise to certain Federal laws and questions as referenced in “**Section I of Defendants Response to Plaintiffs Motion to Remand**” (**Pages 1 of 9 and 2 of 9**)

also evidenced in Defendants “Supporting letter to motion to dismiss presentment (**Page 2 of 7**)” filed on record in this case on 9-13-2017 which the laws, codes and statutes are incorporated by reference and are the Defendants supporting authority to his facts, not theory. Plaintiff is also required to follow certain pre-foreclosure steps before commencing a foreclosure action which include but are not limited to, Notice of Acceleration, Default Notice, A face to face meeting with the borrower, and they are also required to have approval from the Secretary since this is allegedly an government loan, there has been no evidence of either process being followed at the time of this also referenced in Defendants “Supporting letter to motion to dismiss.”

5. The attorney for the opposing party is somehow claiming that the mortgage insurance company which by operation of law is there to protect it against any claim of loss and I believe they are claiming a **loss**, and thereby they have offered no further documentation of any right to be a part of these proceedings and so I move to enjoin them from any further participation.
6. The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs as stated under Section 28 U.S. Code § 1332(a), from what the Plaintiff is alleging, this is the case for the Plaintiffs pleadings. **6.)** Plaintiff has failed to serve and join Alan Wilson (Attorney General) who is a feasible party to this case for the state of South Carolina in its pleadings as a Defendant which according to the intention of the legislature (Congress), and in this instance the legislature gave us their intent when it stated the following when creating the March 9, 1933 act which is still in effect, That:

- a. *"The ultimate ownership of all property is in the state; individual so-called 'ownership' is only by virtue of the government..."* See **Senate Document No. 43, 73rd Congress, 1st Session** is being incorporated by reference and attached as **Evidence** in this response.
- b. *"Under the new law the money is issued to the banks in return for government obligations...notes... It will represent a mortgage on all the homes, and other property of all the people of the nation ..."* See **Congressional Record, March 9, 1933 – HR 1491 p. 83** which is being incorporated by reference and attached as **Evidence** in this response.

As it is a fact the intent of Congress by the **March 9, 1933 Act** as documented by Congress which is still in effect, the opposing counsel has no standing here because all that was required on my part was to surrender the interest back to the United States which I have done because they are documented owners of all property in the United States personal and/or otherwise and we have not seen any evidence on the record where the mortgage insurance has not been paid to the respondents and or they have not receive the funds from the government as noted above the property and any associated mortgage is said to be an obligation of the government and per the United States code title 18 subsection 8 the United States Treasury is responsible for all government obligations therefore it is impossible for me, the Defendant to be held liable for government obligations, as the court and Plaintiff seems to presume, infer, suggest, and allude to.

The Defendant has no authority to speak on behalf of the government or the state, only the Attorney General has that authority and/or right and the alleged mortgage and altered note that the Plaintiff has alleged that they are the holders of, not the holders in due course of

the original baring the Defendants Wet Ink Signature, and the Attorney General, a Feasible party to this case needs to be enjoined into these pleadings as the alleged insured mortgage note insured under the full faith and credit of the United States government interest has been properly endorsed and delivered as defined in statute (**See...7 CFR § 1901.508 (c)(i)(ii) attached as evidence**) to “the United States of America, Without Recourse” for which the present alleged holder and other governmental entities/agencies have received and been notified of.

Defendant hereby requests that the Attorney General Alan Wilson be enjoined in this case as the Attorney General can represent the State and the Government if this court or any other court chooses not to dismiss this foreclosure. A copy of the endorsed note is being deposited into this court as **Evidence** with this specific endorsement as defined in statute referenced above as the endorser's obligations has been fulfilled/satisfied. It is and has been the holder's responsibility to contact the appropriate party (the United States government) to receive their timely payment cheque for which any and all alleged holders both previous and present may have refused to do in violation of the 11th amendment or have already done and failed to disclose certain information to Defendant in violation of **TILA** and failing to inform Defendant that there is more than one mortgage on the Defendants property which is also a violation of **TILA** which is why Defendant has been requesting and demanding certain information from the Plaintiff be disclosed only to receive an insufficient response or no response at all in violation of the Defendants Rights, Consumer Laws, Federal Laws and/or State Laws.

The above referenced statute (**7 CFR § 1901.508 (c)(i)(ii)**) makes it clear of what the

holder must do once the mortgage “Note” is properly endorsed in order to receive payment therefore the Plaintiff has no further alleged claims against the Defendant only the United States government and their complaint should be dismissed with prejudice and this court should move forward with Defendants Countersuit as it stand.

If this foreclosure proceeds, Defendant further requests a certified complete and comprehensive accounting of any and all accounts payable and receivable ledgers signed under penalty of perjury by the person conducting the accounting stating that they have firsthand knowledge of what is being produced and filed on the record is true and correct and also a certified complete proper chain of title be produced on record from any and all previous and current holders of the “Note” who have claimed some sort of alleged interest in government property including their off balance sheets, Book Entree Securities, 2046 Balance Sheets, ect...as requested several times before in presentments to Plaintiff which some are already filed on record in this case as **Exhibits and Evidence**.

II. The Magistrate Judge Erred in regards to ignoring the Defendants defenses and counterclaims involving the Constitution or laws of the United States.

In Regards to Magistrate Judges statement “Potential defenses and counterclaims involving the Constitution or laws of the United States are ignored. Vaden v. Discover Bank, 556 U.S. 49, 60 (2009).” Defendant objects to this statement for the following reason: Under Article XI of the U.S. Constitution states that:

1. “This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United

States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding,” therefore the constitution cannot be ignored, to do so is a complete and willful violation of all my natural rights as one of the people which I have Explicitly Reserved and Retain which all judges have sworn an oath to uphold in regards to the State and U.S. Constitution. I request that all Judges and Magistrates administering this case produce on the record a certified copy of their oath of office which is evidence confirming your sworn oath to uphold the constitutions.

III. The Magistrate Judge statement regarding Federal Laws being involved in foreclosure.

In regards to the following statement by the Magistrate Judge, “While in his response to BOA's motion to remand, Defendant Bruce argues that all foreclosures involve federal laws, he fails to provide any authority to support this theory as a justification for removal” the Defendant hereby objects to this statement and states the following, these laws are incorporated by reference and some of which has already been filed on the record as mention previously in this response and filing.

CONCLUSION

For the foregoing reasons, the Court should reject the Magistrate Judge’s Report and Recommendation (Doc. 14) and deny the Plaintiffs “Motion to Remand.” This Court should also dismiss the Plaintiffs Pleadings with Prejudice and proceed with Defendants

Counterclaims and have the Attorney General be enjoined in this case as a Defendant if the Plaintiffs pleading does not get dismissed and order the Plaintiff and other parties incorporated by reference in this case to be enjoined and disclose all documents and financials being requested on the record in this response.

Respectfully submitted,

“Without Prejudice”

Nelson L. Bruce, Propria Persona, Sui Juris
THE BENEFICIAL OWNER OF THE EQUITABLE CESTUI QUE TRUST
All Natural Rights Explicitly Reserved and Retained
U.C.C. 1-207/1-308, 1-103.6
c/o PMB 1605 Central Avenue, Ste.6 # 167
Summerville, South Carolina 29483

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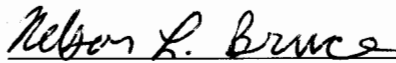
CERTIFICATE OF SERVICE

I hereby certify that, on this ____ day of February, 2018, a true and complete copy of the foregoing "DEFENDANT'S OBJECTIONS TO MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION," by depositing the same in the United States mail, postage prepaid, has been duly served upon all parties of record in these proceedings.

Addressed to:

Albertelli Law (Attorneys for Plaintiff)
Attention: William S. Koehler
1201 Main Street, Suite 1450
Columbia, SC 29201
Certified Mail #: 7017 1070 0000 8485 4525

"Without Prejudice"

 2-2-2018

Nelson L. Bruce, Propria Persona, Sui Juris
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